

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF ILLINOIS  
3 EASTERN DIVISION

4  
5 BALLY MANUFACTURING CORPORATION,

6 Plaintiff,

7 -vs-

8 D. GOTTLIEB & CO., WILLIAMS  
9 ELECTRONICS, INC., and ROCKWELL  
INTERNATIONAL,

10 Defendants.

Case No. 78-C-2246

**FILED**

**OCT - 9 1980**

*H. Stuart Cunningham, Clerk  
United States District Court*

11  
12 DEPOSITION of DANIEL N. WINTER, a witness in

13 the above-entitled action, taken at the instance of the  
14 Defendants, under the provisions of the Federal Rules of  
15 Civil Procedure, pursuant to Notice and Agreement, before  
16 KATHLEEN M. HACKBARTH, a Notary Public in and for the State  
17 of Wisconsin, at 825 North Jefferson Street, in the City and  
18 County of Milwaukee, State of Wisconsin, on the 17th day of  
19 June, 1980, commencing at 9:30 o'clock in the forenoon.

20 APPEARANCES

21 FITCH, EVEN & TABIN, by DONALD L. WELSH, Esq.,  
22 A. SIDNEY KATZ, Esq., and JEROLD B. SCHNAYER, Esq., 135 South  
23 LaSalle Street, Chicago, Illinois 60603, appeared on behalf  
24 of the Plaintiff, Bally Manufacturing Corporation, and the  
25 witness, Daniel N. Winter.

1 ARNOLD, WHITE & DURKEE, by JOHN F. LYNCH, Esq.,

2 2100 Transco Tower, Houston, Texas 77056, appeared on behalf  
3 of the Defendants, D. Gottlieb & Co. and Rockwell International.

4 MC DOUGALL, HERSH & SCOTT, by MELVIN M. GOLDENBERG, Esq., 135 South LaSalle Street, Chicago, Illinois  
5 60603, appeared on behalf of the Defendant, Williams Electronics,  
6 Inc.

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8 as the witness  
9 is convinced that

10 they're not making this assertion  
11 they're not making the  
12 assertion

13 some of them.

14 which ones are  
15 all subject to the  
16 I can only go to the  
17 they're Bally

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19 can consider  
20 of a predecessor  
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through 300. P R O C E E D I N G S

(An off-the-record discussion was held.)

MR. LYNCH: This I want on the record. You say these documents are marked confidential. I want to know if they're Bally confidential.

MR. KATZ: They're MCI confidential.

MR. LYNCH: MCI doesn't exist.

MR. WELSH: Confidential insofar as the witness is concerned. That's --

MR. LYNCH: So Bally is not making this assertion they're confidential; only the witness is making the assertion?

MR. KATZ: With respect to some of them.

MR. LYNCH: You better tell me which ones are Bally confidential. I will take them all subject to the protective order, subject to the -- I can only go to the court for relief. I want to know whether they're Bally confidential.

MR. KATZ: I think that Bally can consider -- can make a claim of confidentiality on behalf of a predecessor of an acquired company.

MR. LYNCH: Bally acquired what company? MCI?

MR. KATZ: This was Dave Nutting Associates, and this was a predecessor.

MR. GOLDENBERG: I don't see how that can be

1 through 3356.

2 MR. LYNCH: What are they?

3 MR. SCHNAYER: Well, you can --

4 MR. LYNCH: Can you characterize them on the  
5 record?

6 MR. SCHNAYER: Checks, copies of checks.

7 MR. LYNCH: This is marvelous. I can't read  
8 them.

9 MR. GOLDENBERG: That's why you got copies of  
10 them.

11 MR. LYNCH: Why are they being produced? They  
12 look like checks from MCI to I don't know who. Why are  
13 these Bally documents --

14 MR. SCHNAYER: Well, they're documents that  
15 Bally has obtained.

16 MR. LYNCH: A, I can't read them. B --

17 MR. WELSH: Show him the originals.

18 MR. SCHNAYER: I'll show you the originals.

19 MR. GOLDENBERG: What do you mean, they're  
20 documents that Bally has obtained?

21 MR. SCHNAYER: Well, exactly what I said.

22 MR. GOLDENBERG: Where did Bally obtain them  
23 from?

24 MR. SCHNAYER: I don't think we have to tell you  
25 that. They were obtained and they're being produced.



1 MR. GOLDENBERG: You don't think you have to  
2 tell us that. What are they being produced for?

3 MR. SCHNAYER: As part of the document request.

4 MR. GOLDENBERG: They were obtained from Mr.  
5 Nutting?

6 MR. SCHNAYER: I don't think we have to make a  
7 statement about that so I won't.

8 MR. LYNCH: Well, I think you do because there  
9 is another source of documents relating to MCI that  
10 provides the source to us that might lead to relevant  
11 evidence. It certainly is relevant where this other  
12 source of documents is.

13 MR. SCHNAYER: Those copies are yours to -- to  
14 keep.

15 MR. LYNCH: These?

16 MR. SCHNAYER: No, the copies I gave you.  
17 If you want to try to make better copies, you're more  
18 than welcome to.

19 MR. GOLDENBERG: Do we have any other documents  
20 that Bally has obtained bearing on MCI that you're not  
21 giving us?

22 MR. SCHNAYER: Those are documents that we ob-  
23 tained, and I'm giving them to you.

24 BY MR. LYNCH MR. GOLDENBERG: Do you have any others that  
25 you're not giving us?

1 A Daniel N. MR. SCHNAYER: Not that I know of.

2 Q Where do MR. GOLDENBERG: Who would know?

3 A Pardon? MR. KATZ: One thing that concerns me, John,  
4 Q when you said that you rejected our position at hand with  
5 A respect to the protective order, does that mean you're  
6 Q not accepting the documents under the conditions of the  
7 A protective order entered into in this case?

8 Q And what MR. GOLDENBERG: The ones we're looking at now?

9 A Kurz and MR. LYNCH: No. No, I reject your position  
10 out of hand that the protective order isn't sufficient.  
11 Q I will agree to accept these under the protective order.  
12 I reject the position they're Bally confidential. I will  
13 A respect this witness' desire that they not be published  
14 subject to the fact I will go to the Court if I feel they  
15 Q should be. So far I haven't found anything in here. This  
16 is an agreement I'm entering into. I don't know if they're  
17 A subject to the protective order or not. I will treat them  
18 Q as such. Understand what's going on?

19 A Yes, I do. MR. KATZ: Thank you.

20 Q All right. (An off-the-record discussion was held.)

21 is an also DANIEL N. WINTER, called for examination herein,  
22 having been first duly sworn, testified as follows:

23 tion, relevant EXAMINATION of this deposition is by

24 BY MR. LYNCH: cause in order to bring facts before a court

25 Q Please state your name. with is correct. I would like

1 A Daniel N. Winter.

2 Q Where do you live, Mr. Winter?

3 A Pardon?

4 Q Where do you live?

5 A 5410 Elmhurst, Mequon, Wisconsin.

6 Q Now, by whom are you employed at the present time?

7 A Kurz and Root.

8 Q And what -- what business is that company in?

9 A Kurz and Root builds motor generators, electronic control  
10 systems, and other associated electrical components.

11 Q And what is the nature of your duties and responsibilities  
12 for that company?

13 A I am vice president. Basic responsibility is that of  
14 general manager.

15 Q Now, Mr. Winter, have you ever had your deposition taken  
16 before?

17 A No, I have not.

18 Q Do you understand what's going on?

19 A Yes, I do.

20 Q All right. Let me explain it to you a little bit. There  
21 is an altercation going on concerning some matters with  
22 which you potentially had an association or some informa-  
23 tion, relevant information, and this deposition is being  
24 taken because in order to bring facts before a court,  
25 witness testimony under oath is needed. I would like

1 you to understand that that witness testimony is supposed  
2 to be of things of which you have first-hand knowledge,  
3 things you saw, things you observed, things -- not things  
4 you heard as rumor which even you might accept as business  
5 rumor, you know, the way you conduct your ordinary  
6 business. You can tell me about those rumors if you  
7 like. If you can keep in mind you're talking about  
8 something you didn't observe directly, if you would state  
9 it for the record, that will save us some time and  
10 difficulty. Otherwise, you're put under oath because the  
11 testimony that you are giving will or possibly can be used  
12 in court, and although there is no judge here, your  
13 testimony here is the same as if it were given before  
14 the judge in Chicago. Now, if you have any questions,  
15 you don't understand my questions, please indicate you  
16 don't understand them, and I'll rephrase them. It is my  
17 object to try to get information and not to in any way  
18 confuse you or confuse any issues. Now, I understand, Mr. Winter, you are repre-  
19 sented by counsel here; is that correct?

21 A That's correct.

22 Q Now, are the counsel Mr. Welsch and Mr. Katz and Mr.  
23 Schnayer?

24 A Yes, they are.

25 Q Now, do you know what the role of these gentlemen has

1 A been in the litigation in which this deposition is being  
2 taken?

3 A I don't quite understand your question.

4 Q Well, you know there is litigation involving Bally  
5 Manufacturing Company?

6 A Yes, I do.

7 Q Do you know that these gentlemen represent Bally?

8 A Yes, I do.

9 Q Now, you then understand that these gentlemen have an  
10 interest to protect in the litigation?

11 A Yes, I do.

12 Q Do you have the same interest to protect?

13 A No, I don't.

14 Q Okay. I want to ask you about your conversations with  
15 these gentlemen in connection with the testimony you're  
16 going to give. Have you had any conversations with them  
17 about the testimony that you would give at this deposition?

18 A I have had conversations with them as to the nature of the  
19 deposition and that I should be totally honest and forth-  
20 right.

21 Q Um-hmm. Now, did you have any conversations with them  
22 about occurrences at the time period that you were  
23 associated with Mr. Nutting, Mr. Frederiksen in MCI?

24 A Yes, I did.

25 Q Did you relate to them any facts that occurred back then?

1 A Yes, I did.

2 Q Well, in general, tell me when you had these conversations  
3 with them and -- relating to facts of your association  
4 with MCI.

5 A I do not recall the exact date of my first phone call.

6 Q I understand.

7 A But I did have a conversation with Jerold Schnayer and  
8 Donald Welsh in Milwaukee approximately one month ago,  
9 where we talked for two hours about the experience I  
10 had --

11 MR. WELSH: I want to caution the witness that  
12 it is not appropriate to discuss communication -- the  
13 subject matter of the communications which we have had  
14 which as -- as your counsel, representing you, those  
15 communications are privileged communications which you  
16 as the person represented have the right to claim, so  
17 while Mr. Lynch is entitled to inquire about when meetings  
18 took place and who was present, he is not entitled to  
19 inquire about the conversations.

20 MR. LYNCH: --

21 Q Well, understand this, Mr. Winter. You can tell me  
22 anything you want. What I want to know is why, for what  
23 reason, you might desire to talk to Mr. Welsh and/or  
24 Mr. Schnayer about facts that occurred and not to me.  
25 We're talking about the occurrences back in the time period

1 of 1973, 1974, perhaps 1975, when you were connected  
2 with MCI. I can assure you that there is no desire on  
3 the part of any person in this litigation to involve  
4 MCI or yourself in any way that could possibly be adverse  
5 to you. I don't think your lawyers could advise you  
6 possibly we could have that intent. However, you must  
7 understand that Mr. Welsh has an ax to grind in this re  
8 litigation, and consequently I'd like us to be forthright  
9 and for us to discuss everything that was discussed be-  
10 cause it is true, isn't it, Mr. Winter, that you were  
11 contacted by a lawyer for Williams who I believe is Mr.  
12 Rifkin (phonetically), and you wouldn't talk to him; is  
13 that correct?

14 A That's correct.

15 Q Now, insofar as I can see, Mr. Winter, is there any reason  
16 why you won't talk to him and won't discuss with me the  
17 same things you discussed with Mr. Welsh?

18 A Mr. Rifkin called me in Appleton at a very inopportune  
19 time, and I just could not meet with him. He called me  
20 subsequently to that and at that point I decided I did  
21 not want to meet with him.

22 Q Um-hmm. That's what I want to know. Why?

23 A I can't give you a real reason.

24 Q Have you been advised by Mr. Welsh that somehow we might  
25 involve you personally?



1 A No, I have not.

2 Q Well, I want you to understand, Mr. Winter, that various  
3 facts about which you will be testifying are facts that  
4 perhaps might have some real import, perhaps might not,  
5 but I believe for you to try to shield any conversations  
6 you had with the attorneys from the other side in this  
7 connection just doesn't seem to make any sense. You're  
8 not under any threat or any potential difficulty in this  
9 matter. So I'd like to ask you if you'd tell me what the  
10 nature of your conversations with Mr. Welsh and Mr. Katz  
11 were. Now, understand Mr. Welsh has an ax to grind and  
12 he's advising you not to tell me. I want you to tell me  
13 anyway, because I don't have -- I'm going to have it  
14 out so everybody can read it including Mr. Welsh.

15 A Your question is too general for me to answer.

16 The Judge MR. WELSH: I object to the question also as  
17 calling for privileged communications, and also, I might  
18 note for the record that Mr. Lynch also has an ax to grind.  
19 from ask MR. LYNCH: Of course I do.

20 Q I admit that, Mr. Winter, but I'm not keeping any secrets.  
21 It's all going down here on a record that the Court will  
22 see, and that's the point I want to make.

23 what fact MR. WELSH: You're entitled to ask him questions  
24 about his recollection of what went on at MCI back at  
25 the --



1 MR. LYNCH: Well --

2 MR. WELSH: -- time period you referred to, but  
3 you're not entitled to inquire as to his conversations  
4 with me.

5 MR. GOLDENBERG: You're absolutely wrong, Mr.  
6 Welsh. Judge Grady has expressly said that any conversa-  
7 tions with attorney -- with an attorney with respect to  
8 the witnesses' respective testimony can be inquired into.

9 MR. WELSH: That -- here as well as I can.

10 MR. GOLDENBERG: Any suggestions or proposals  
11 made, any kind of conversation going to that kind of thing  
12 is appropriate for discovery.

13 MR. WELSH: That is not true.

14 MR. GOLDENBERG: That is true.

15 MR. WELSH: It's not what the Judge ordered.

16 The Judge said that it was proper to ask the witness  
17 questions as to whether he had been told how to answer  
18 any questions that might be put to him. That is different  
19 from asking for relation of the conversations.

20 MR. LYNCH: and whatever has gone on in this

21 Q Okay. Let me ask you this, Mr. Winter. I want you to  
22 tell me what Mr. Welsh told you about this lawsuit and  
23 what facts have been developed in it thus far.

24 MR. WELSH: I object to the question as calling  
25 for privileged communication and instruct the witness he

1 need not answer.

2 MR. LYNCH: Now --

3 MR. GOLDENBERG: Mr. Welsh, you can't instruct  
4 the witness as to anything.

5 MR. LYNCH: Wait, wait a minute. Let me --

6 Q Mr. Winter, you see what we're getting into here. Now,

7 I've -- really, Mr. Winter, I've absolutely no desire  
8 at all to in any way inconvenience you, but you can

9 appreciate what is happening here as well as I can.

10 Let me explain something to you, Mr. Winter. The whole

11 idea of an attorney-client communication being privileged

12 is so that a client can seek the advice of a lawyer

13 under the proper circumstances, when he needs one, when

14 he's in trouble, when his business is in trouble, when

15 the cops are after him. This is not the situation we're

16 in, Mr. Winter. Now, furthermore, what Mr. Welsh told

17 you about the litigation is not privileged. The only

18 thing that's privileged is what you tell him. What he

19 tells you about the litigation and the background and

20 what he wants to prove and whatever has gone on in this

21 litigation is not privileged information. So I'd like to

22 ask you once again, Mr. Winter, to relate for me what

23 Mr. Welsh told you concerning this litigation in your con-  
24 versations with him prior to this deposition.

25 MR. WELSH: I object to the question as calling

1 for privileged communications. I disagree with Mr. Lynch  
2 as to what constitute privileged communications and I  
3 advise the -- the witness the question need not be  
4 answered, you can refuse to answer to protect your privi-  
5 lege. choice.

6 Q Do you hear MR. LYNCH:

7 Q You can, but I'm going to be back; there is going to be  
8 another time. You've got to understand my position. Do  
9 you understand my position, that I'm not trying to in-  
10 convenience you, and I'm not trying to get you in any  
11 potential difficulty personally, or MCI?

12 A I understand both positions. I prefer that you ask me  
13 direct, specific questions.

14 Q Well, I am. The first thing I want to know is precisely  
15 what Mr. Welsh told you about this litigation, as a

16 direct specific question.

17 Q Well, you MR. WELSH: Continuing objection as calling for  
18 privileged communications. Advise the witness he not

19 answer.

20 Q You did hear MR. LYNCH: One with the other involved occurred

21 Q Do you refuse to answer, Mr. Winter?

22 A In view of the discussions at this table, yes, I do

23 because it seems too unclear in mind as to who's

24 correct.

25 Q Well, is it fair to say, Mr. Winter, that your position

1 in this litigation is one where you are accepting the  
2 advice of Bally's lawyers; isn't that correct?

3 A During this deposition, yes.

4 Q Now, for what reason are you doing that?

5 A As my choice.

6 Q Do you have --

7 MR. WELSH: Object to the question as calling  
8 for conclusions, not facts within this witness' knowledge.

9 MR. LYNCH:

10 Q I want to establish one thing for you, Mr. Winter. That

11 your testimony has to be evaluated also as to its credi-

12 bility, and I want to thoroughly establish that you're

13 taking advice from Bally's lawyers and that you won't

14 answer my questions that you're willing to answer for

15 them and that is the case, isn't it, Mr. Winter?

16 A I don't think that's a correct summation.

17 Q Well, you did speak to them earlier before this deposition;  
18 correct?

19 A Correct.

20 Q You did have discussions with them that involved occurrences  
21 in this lawsuit; correct?

22 A Yes.

23 Q And you won't tell me what those were; isn't that right?

24 A Yes.

25 Q And you refused to have a discussion with Mr. Rifkin who

1 represents one of the defendants, prior to that deposition;  
2 isn't that correct?

3 A That is correct.

4 Q Now, tell me, Mr. Winter, what you -- did you go -- tell  
5 me when you finished your formal education and what  
6 the nature of that was.

7 A My formal education was at the University of Colorado  
8 with a bachelor's degree in engineering.

9 Q What type of engineering?

10 A Mechanical.

11 Q When did you get that degree, Mr. Winter?

12 A 1969.

13 Q Now, prior to that time, had you had any work experience?

14 A Prior to college?

15 Q Yah. Prior to going to college.

16 A Yes, I did.

17 Q What was the nature of that work?

18 A I worked -- during the summertime I worked in factories  
19 and I also worked for a landscape gardener.

20 Q And you graduated from college in 1969?

21 A University of Colorado.

22 Q And what did you do then?

23 A Went to work for Martin Marietta (phonetically).

24 Q Where?

25 A In Denver, Colorado.

1 Q And what was the nature of your duties and responsibilities  
2 for Martin Marietta?  
3 A I was in production and production purchasing.  
4 Q What type of apparatus was produced by Martin Marietta?  
5 A It was during the missile scare and we were building  
6 missiles.  
7 Q Okay. How long did you work for Martin in Denver?  
8 A Two years.  
9 Q What did you do then? We're talking about 1971 or there-  
10 abouts now?  
11 A Martin Marietta transferred me to Tucson, Arizona.  
12 Q What did you do in Tucson?  
13 A Continued working for them in a purchasing capacity.  
14 Q Now, were you doing engineering work on these missiles  
15 while you were in Denver?  
16 A No, I was not.  
17 Q What kind of work were you doing?  
18 A Production and purchasing.  
19 Q I see. In Tucson, what were you doing once again?  
20 A Purchasing for Martin Marietta.  
21 Q Once again it was with respect to missiles?  
22 A Yes, it was.  
23 Q How long did you stay in Tucson?  
24 A Two years.  
25 Q We're talking about 1973 or thereabouts then?

1 A Yes.

2 Q What did you do then?

3 A I left Martin Marietta and joined Cutler-Hammer Corporation  
4 in Milwaukee, Wisconsin.

5 Q What is the business of Cutler-Hammer?

6 A They build electronic and electrical controls and control  
7 systems.

8 Q For what kind of apparatus?

9 A Total industry apparatus. All the way from automotive  
10 steel mills to homes.

11 Q Okay. What was the general nature of your duties and  
12 responsibilities for Cutler-Hammer?

13 A I was a project manager for large, complex industrial  
14 systems.

15 Q Like, give me --

16 A Automation of steel mills, automotive plants.

17 Q I see. Okay. How old are you, Mr. Winter?

18 A Forty-seven.

19 Q Now, prior to the time you graduated from college in  
20 1969, you gave me a history of -- of general summer jobs  
21 and the landscape architect. Did you have any long-term  
22 employment prior to going to college?

23 A I went from high school to college.

24 Q 1969?

25 MR. WELSH: He said he graduated from college

1 Q in 1969.

2 THE WITNESS:

3 A I made an error in my speech. It was actually '59.

4 A MR. LYNCH:

5 Q I figured it was 1959. And so we got to 1973 with a  
6 A scope of two or three years employment and somehow it's  
7 gotten out of wack.

8 A You're correct. Hey located?

9 Q Can you just recount what you did from the time you got

10 Q out of college in 1959? that you joined Nutting Industries?

11 A I worked for Martin Marietta in Denver.

12 Q And in Tucson? d Nutting Industries, what was the first

13 A Then in Tucson. Then I left Martin Marietta, joined

14 A Cutler-Hammer in Milwaukee.

15 Q When was that that you joined Cutler-Hammer in Milwaukee?

16 A I don't recall the date. any?

17 Q I know. What year? es. Specifically the IQ Computer.

18 A I'm not sure of the date right now. only game being built

19 Q Was it in the 1970's or 1960's or --

20 A I believe that was 1969. ever. What were the nature of

21 Q Okay. And so otherwise you've given me a correct summary  
22 of your work experience and the nature of the duties and  
23 A responsibilities you had with Martin Marietta before that  
24 time? management of the plant.

25 A Yes, I have. also that you joined Nutting Industries, P.



1 Q Okay. So you were with Cutler-Hammer dealing with these  
2 large scale control systems. How long did you stay with  
3 them?  
4 A Three years.  
5 Q And where did you move then? What was your next job?  
6 A I left Martin Marietta (sic) to join a company called  
7 Nutting Industries.  
8 Q And where were they located?  
9 A In Milwaukee.  
10 Q That was in 1972 or '73 that you joined Nutting Industries?  
11 A It would have been prior to that.  
12 Q When you joined Nutting Industries, what was the first  
13 position that you held with this company?  
14 A I was a general manager.  
15 Q What was the nature of the business of Nutting Industries  
16 when you joined that company?  
17 A They built arcade games. Specifically the IQ Computer.  
18 Q When you came on board was that the only game being built?  
19 A Yes, it was.  
20 Q And you were general manager. What were the nature of  
21 your duties and responsibilities in connection with this  
22 game, the IQ Computer?  
23 A The main thrust was that of production, scheduling and  
24 general management of the plant.  
25 Q Now, at the time that you joined Nutting Industries, how

1 many employees -- how many employees did the company have?

2 A They had approximately 70 to 80 employees.

3 Q Now, Mr. Nutting was -- Mr. David Nutting was an employee,  
4 or was associated with the company when you joined Nutting

5 Industries? and Harold Montgomery.

6 A Yes, he was. the IQ Computer to your knowledge?

7 Q And you indicated that the only game being made when you  
8 joined the company was the IQ Computer?

9 A When I joined, yes, it was. you there when that item was

10 Q Now, was there a gentleman named Livingston who was in-

11 volved in that -- in Nutting Industries at that time?

12 A Not that I recall. who designed the first one then?

13 Q Do you ever recall a fellow named Livingston?

14 A I do not recall that name. if, of course, of the IQ Computer

15 Q Now, the IQ Computer, what -- do you remember how that  
16 game operated, Mr. Winter?

17 A It was basically an electro-mechanical game. It had only  
18 two printed circuit boards, and it also had a projection  
19 or videotape system. that is all?

20 Q Um-hmm. and the model number is the IQ Computer to, I

21 believe is MR. LYNCH: Let me take five minutes right now.

22 number. (A recess was taken at 10:35 a.m.)

23 Q Okay. (The deposition reconvened at 10:45 a.m.)

24 MR. LYNCH: Okay. and model number was the IQ

25 Q At the time you joined Nutting Industries, Mr. Winter,

1 A how many people were involved in the design of games for  
2 Q that company?

3 A When I joined, two people were doing the design work.

4 Q Who was that?

5 A Dave Nutting and Harold Montgomery.

6 Q Who designed the IQ Computer to your knowledge?

7 A It was a dual effort between Dave Nutting and Harold

8 A Montgomery. I an added feature of a gong or bell, and it

9 Q When you were there, were you there when that item was

10 first designed? the IQ Computer? It was still called the

11 A I was not there when the original model was designed.

12 Q So you don't know who designed the first one then?

13 A Not the original. the next change that occurred in connection

14 Q Okay. Now, were other modifications of the IQ Computer

15 made thereafter? which was a two-player version of the

16 A Yes, there were.

17 Q And did they go by the same name?

18 A Yes, they were. Harold Montgomery.

19 Q What other names did they go by? the former IQ Computer?

20 A They changed the model number from IQ Computer to, I

21 believe it was 101 to IQ Computer with another model

22 number. are concerned?

23 Q Okay. And what was the difference between those two --

24 Were you there when the second model number was first pro-  
25 duced?

1 A Yes, I was.

2 Q What was the nature of the change between the first one and  
3 the second?

4 A There were basic improvements in the cabinetry and in  
5 the electrical controls.

6 Q Do you know the nature of the changes in the electrical  
7 controls?

8 A The game had an added feature of a gong or bell, and it  
9 had an improved projecture -- projector.

10 Q This was still the IQ Computer? It was still called the  
11 IQ Computer though?

12 A Yes, it was.

13 Q Do you remember the next change that occurred in connection  
14 with that device?

15 A We made a dual IQ which was a two-player version of the  
16 original.

17 Q Do you know who designed that?

18 A Dave Nutting and Harold Montgomery.

19 Q Now, how did that differ from the former IQ Computer?

20 A It allowed two people to play the same game.

21 Q And any other changes as far as the electronics of the  
22 game were concerned?

23 A Other changes were necessitated by the fact that two  
24 people were playing it so the circuit had to be completely  
25 redone.

1 Q Now, what changes were involved --a Strike that. Were  
2 A there any characteristics of the circuit in the dual IQ  
3 Computer that didn't exist formerly in the IQ Computer?

4 A Yes.. was there an array of switches that was scanned

5 Q And what was that? mechanical device in that dual IQ Computer?

6 A The scoring system had-a be redone to keep score for two  
7 Q players rather than one.

8 Q Um-hmm..re was not.

9 A And two sets of controls had to be added..se?

10 Q How about the internal operation of the device? Were he  
11 there any changes in connection with the circuitry there?

12 A The items I just enumerated required circuit changes.

13 Q I see.. Do you know if there was ever a patent sought or  
14 Q obtained on this dual IQ Computer design by Nutting and the  
15 Industries? Strike that. Did this array of diodes such as

16 A I do not know. scoring system of the IQ Computer similar

17 Q Have no idea whther it was --strike that. Was this array

18 A I believe a patent was applied for and obtained but I'm  
19 not sure. MR. WILSH: I object to the question. I believe

20 Q And do you know in whose name it was --there was an array

21 A I do not know..ar --

22 Q Now, in connection with this dual IQ Computer, was there  
23 a matrix of various switches in the internal operation  
24 of that device?

25 A I do not understand your word matrix.

1 Q You don't -- You don't know what a matrix is?

2 A I know what a may -- matrix is, but to me it does not apply  
3 to the IQ computer.

4 Q Well, was there an array of switches that was scanned  
5 sequentially by mechanical device in that dual IQ Computer?

6 A An array of switches that was scanned?

7 Q Yah.

8 A No, there was not.

9 Q Was there an array of diodes in that device?

10 A They did use diodes on the scoring board, as part of the

11 circuit.

12 Q And how were those diodes arranged?

13 A I do not specifically know.

14 Q Was this array of diodes in the dual IQ Computer then the  
15 design -- Strike that. Did this array of diodes such as

16 existed in the scoring system of the IQ Computer similar

17 to the array of diodes -- Strike that. Was this array

18 of diodes that existed in the dual IQ Computer --

19 MR. WELSH: I object to the question. I believe

20 he said that he did not know whether there was an array

21 or not. So your --

22 MR. LYNCH: This arrangement of diodes.

23 MR. WELSH: He said he didn't remember what it

24 was.

25 MR. LYNCH:

1 Q I'm sorry, Mr. Winter, didn't you say there were diodes  
2 Q used in the dual IQ Computer?  
3 A There were diodes used.  
4 Q Were diodes of a similar arrangement used in the IQ  
5 Computer, the game that preceded the dual IQ Computer?  
6 A I do not know the specific arrangement of the diodes.  
7 Q Now -- In -- In either device?  
8 A In either device.  
9 Q Now, were there diodes used in the scoring system of the  
10 IQ Computer at all?  
11 A Diodes were used on the photocell board and the scoring  
12 board in the IQ Computer.  
13 Q Okay. Now, when the dual IQ Computer came along, did that  
14 design involve an arrangement of diodes, drivers or lights  
15 in a grid or matrix-like pattern?  
16 A I believe not.  
17 Q Now, in connection with your recollection about the  
18 seeking of patent protection on the dual IQ Computer,  
19 were you involved at all in that?  
20 A I did not state that it was on the dual IQ Computer.  
21 Q Oh. What's the next game that you can recall being  
22 A I was under the impression that a patent was applied for  
23 on the original IQ Computer.  
24 Q Do you know if anything was applied for on the dual IQ  
25 Computer?

1 A I do not know.

2 Q So after the IQ Computer 101 and the IQ Computer which had  
3 another number and the dual IQ Computer, at this point in  
4 time, at the time the dual IQ Computer was introduced by  
5 Nutting Industries, were those the only products with  
6 which you had experience at Nutting Industries; that is,  
7 the IQ Computer 101 and the IQ Computer with the other  
8 number, and the dual IQ Computer?

9 A Nutting also built a game called Red Baron.

10 Q Now, when did that commence being built?

11 A I do not recall the year.

12 Q Was it after you came to --

13 A Yes.

14 Q It was. What kind of game was Red Baron?

15 A It was an arcade game which used a projection system to  
16 make an image on a screen which was then fired at by the  
17 operator of the game. Basically, electric-mechanical  
18 type game.

19 Q Um-hmm. Now, you don't remember when that was introduced?

20 A No, I don't.

21 Q Okay. What's the next game that you can recall being  
22 introduced at Nutting Industries?

23 A I believe the last game they produced was the Red Baron.

24 Q The last game they produced?

25 A Yes.



1 Q You were employed by Nutting Industries and you said that  
2 A the last game they produced was the dual IQ Computer or  
3 Q Red Baron?  
4 A Red Baron.  
5 Q And at the time they were producing Red Baron, were they  
6 producing the dual IQ Computer?  
7 A I believe both were being produced simultaneously.  
8 Q What happened to Nutting Industries then?  
9 A It went into receivership.  
10 Q What was your position with Nutting Industries when it  
11 went into receivership?  
12 A I left.  
13 Q Who did you become employed with next?  
14 A I did not become employed for about three or four months.  
15 And my next job was with MCI.  
16 Q Okay. When did Nutting Industries go into receivership?  
17 A I for some reason cannot remember the date.  
18 Q The year.  
19 A I cannot remember that. It was -- I believe it was very  
20 early in '73.  
21 Q Okay. When did you commence your employment with MCI?  
22 A About spring of '73.  
23 Q And there was a three or four month hiatus where you were  
24 not employed by either of these companies?  
25 A That is correct.

1 Q What was the nature of the business of MCI?

2 A MCI was formed to develop, build and sell arcade games.

3 Q Did MCI accrue to the rights of any of these games that had  
4 been sold prior -- previously by Nutting Industries?

5 MR. WELSH: Could I have the question, please?

6 MR. LYNCH: Let me save you the problem.

7 Q Did MCI make either the IQ Computer, the dual IQ Computer,  
8 or the Red Baron?

9 A They made the Red Baron.

10 Q How about either of those IQ Computer games?

11 A I don't recall ever making and selling IQ Computer games.

12 Q Did they service those games?

13 A Yes, they did.

14 Q So they serviced the games that Nutting Industries had  
15 previously put out in the field?

16 A Yes, they did.

17 Q Now, what was your position with Nutting Industries at  
18 the time that it went into receivership?

19 A General manager.

20 Q Okay. What was your position with MCI at the time that  
21 that company was begun?

22 A Executive vice president.

23 Q Okay. Are MCI and Milwaukee Coin the same company?

24 A MCI is also known as Milwaukee Coin Industries.

25 Q Okay. So that's the same company?

1 A Yes, it is.

2 Q Is there a Milwaukee Coin that wasn't MCI? I'm not trying  
3 to be obscure.

4 A To make that clear, there is another company in Wisconsin  
5 called Milwaukee Coin, and we had to name our company MCI  
6 as a result. We did become known in the industry as  
7 Milwaukee Coin Industry.

8 Q I see.

9 A We were not in fact Milwaukee Coin Industry; we were MCI.

10 Q Did this Milwaukee Coin Industry, did it ever have anything  
11 to do with Mr. Nutting?

12 A The company -- Are you referring to the company that was  
13 in existence before MCI was?

14 Q Yes.

15 A Yes -- No, it did not have anything to do with Mr. Nutting.

16 Q Did it have anything to do with arcade games?

17 A I don't know the nature of their business.

18 Q Oh, so you don't really know anything about that company;  
19 is that --

20 A It was just an existing company on the statutes in  
21 Wisconsin.

22 Q So let's get -- You were executive vice president of MCI  
23 at the time that MCI was -- MCI's business was commenced  
24 some time, you think, in the spring of 1973; correct?

25 A I believe that's correct.

1 Q Okay. What were the nature of your duties and responsi-  
2 bilities as executive vice president? was a large arcade  
3 A I was the basic business manager of the firm. And, again,  
4 production and overall control were my main objectives.  
5 Q Okay. And at the time that the business began, MCI began  
6 its business, it was manufacturing the Red Baron game?  
7 A Yes, it did. About when are we talking about when flying  
8 Q And it was servicing the IQ Computer games?  
9 A Yes, it was. in the spring to meet the spring market.  
10 Q What was the next game that it commenced to manufacture?  
11 A The Blue Max.  
12 Q What kind of game was that? yes. Because it was a spring  
13 A It was basically the same game as the Red Baron, except  
14 repackaged in a blue cabinet. No circuit changes. at the  
15 Q Okay. What was the next game after the Blue Max?  
16 A I believe it was the Desert Fox. It was in existence in '73  
17 Q Was that a target game, also? inception date.  
18 A Yes, it was. '74 was incorporated. Do you know if it was  
19 Q Did it involved a film projection?  
20 A Yes, it did.  
21 Q Involved shooting at what was on the film projection? it  
22 A Yes, it did.  
23 Q Basically have the same theory of operation as Blue Max  
24 and Red Baron? edge? So those records would be available  
25 A Yes, it did.

1 Q What was the next one after that?

2 A I believe it was the Flying Ace, which was a large arcade  
3 version of the Red Baron.

4 Q Again, a target game? with me here.

5 A Target game. Again, the same basic modus of -- of operation.

6 Q After Flying Ace, what was the next game after that?

7 Q Strike that. About when are we talking about when Flying  
8 Ace first started coming out, Mr. Winter?

9 A It was done in the spring to meet the spring market,  
10 arcade market. in a game where a stream of air was used to

11 Q Spring of '74? through various course of targets around --

12 A No, I could be wrong on my dates. Because it was a spring  
13 game, it could be spring of '73. call any other names?

14 Q And then that would -- Wouldn't that have meant that the --  
15 that MCI was in existence in 1972 then? of the IQ Computer.

16 A At this point I would say, yes, it was in existence in '72.

17 A I think I'm off one year on the inception date. of Winner.

18 Q All right. MCI was incorporated. Do you know if it was  
19 incorporated in the State of Wisconsin? puzzler.

20 A Yes, it was. any game, IQ Computer games -- Up through

21 Q And at the time it was incorporated, that was the time it  
22 was started -- did MCI undertake to manufacture any

23 A Yes. computer type games?

24 Q -- to your knowledge? So those records would be avail-  
25 able? was -- which files were there? That were there

1 A There are records.

2 Q Okay. Do you know where -- You don't happen to have any?

3 I haven't seen anything --

4 A I haven't any records with me here.

5 Q Okay.

6 A Nail that down.

7 Q All right. Let's talk about after Flying Ace. What was  
8 the next game you recall made by MCI?

9 A I believe it was the Air Ball.

10 Q And that's again a game where a stream of air was used to  
11 propel a ball through various course of targets around --

12 A Yes, it was.

13 Q Okay. After Air Ball, do you recall any other games?

14 May I ask you this? Do you recall a game called Winner?

15 A I believe I recall it as being a version of the IQ Computer.

16 Q When did -- did MCI make Winner?

17 A I do not recall marketing any game by the name of Winner.

18 Q How about a game called Puzzler?

19 A We did make a small run of games called Puzzler.

20 Q Did you make any game, IQ Computer games -- Up through the  
21 time you were manufacturing this game you indicated which  
22 was the Air Ball, did MCI undertake to manufacture any  
23 IQ Computer type games?

24 A I believe we did.

25 Q What was -- Which games were they? What were their

1 designation?

2 A I do not recall their names at this point.

3 Q Do you recall how they operated? Strike that. Do you

4 recall if there were any differences between those games

5 and the IQ Computer of the design that had been used for

6 Nutting Industries? before '74 or '73.

7 A All versions of the IQ Computer subsequent to the original

8 change were with regard to the cabinetry or cosmetics.

9 Q Most of the models had minor electrical improvements or

10 additions, and improvements in the projection system. we

11 Q How about the Puzzler? Do you know if the Puzzler game

12 had a matrix in it? this mother board idea, did you have

13 A I believe the Puzzler game did have a matrix in it. charge

14 Q What was the nature of the matrix? ler and the time in

15 A As I recall it was a large printed circuit board with

16 several hundred diodes.

17 Q And to your recollection was that the first game that

18 had such a matrix printed circuit board? - Strike that.

19 A I'm not sure. who developed this idea of a matrix in the

20 Q Was it also called the mother board?

21 A The large board I'm referring to would have also been

22 called the mother board. at design was made?

23 Q In that particular device?

24 A Yes. in present while the design was being made.

25 Q Now, this Puzzler game, was this sold during the year

1 1973 by MCI?

2 A I do not recall the actual marketing of the Puzzler game.

3 Q Was it before 1974?

4 A I'm sorry. I can't recall.

5 Q Before 1975?

6 A It would definitely be before '74 or '75.

7 Q Okay.

8 A Before '74.

9 Q Okay. I understand. You know, just if I get a big  
10 bracket at least I have a bracket. Before last week, we  
11 can start with that. Now we've got it before 1974. Okay.  
12 Now, with respect to this mother board idea, did you have  
13 any discussions with -- Strike that. You were in charge  
14 of production at the time the Puzzler and the time in  
15 which the mother board matrix was being produced; isn't  
16 that correct?

17 A My duties at MCI were production oriented.

18 Q Now, did you ever have any discussions -- Strike that.  
19 Do you know who developed this idea of a matrix in the  
20 Puzzler game?

21 A I am not sure.

22 Q Were you on hand when that design was made?

23 A Yes, I was.

24 Q I mean present while the design was being made.

25 A I was an employee of the company, yes.



1 Q I understand you were an employee of the company, but were  
2 you typically at the time that design was made dealing  
3 with the designers on a day-to-day basis about their  
4 design?

5 A I don't believe I was.

6 Q Okay. At this time, the time that the Puzzler matrix was  
7 generated, were Mr. Montgomery and Mr. Nutting basically  
8 doing the design for MCI?

9 A No, Mr. Montgomery was not an employee of MCI at the time.

10 Q Who was doing the design at that time?

11 A Our electrical design work was done by Duane Knuetson,  
12 Roger Budnick--Nutting has rode in this lawsuit?

13 Q B-u-d-n-i-c-k? MR. WELSH: Same objection. Advise the witness.

14 A Yes. Dave Nutting, and a consulting engineer by the name  
15 of Robert Mauger. MR. WELSH: Why are you advising the witness?

16 Q Robert Mauger, M-a-u-g-e-r?

17 A Yes. MR. WELSH: Because they're privileged communication.

18 Q Is he living in the Milwaukee area?

19 A I don't know. LYNCH: It's a privileged --

20 Q Was he at that time? MR. Frederiksen and Mr. Nutting's

21 A Yes, he was. this lawsuit prior to this date was disallowed.

22 Q When was the last time you saw Mr. Mauger?

23 A I think about three years ago. to the question and answer.

24 Q Was he living in Milwaukee at that time?

25 A Yes. MR. LYNCH:

1 Q same grounds.-- that it was discussed with you?

2 MR. LYNCH:

3 Q Do you --

4 Q All right. MR. WELSH: -- advise the witness he need not  
5 answer.

6 MR. LYNCH:

7 Q Do you refuse to answer that, Mr. Winter?

8 A I do.

9 Q You won't tell me about what they told you what Jeff  
10 Frederiksen said in this lawsuit. How about David

11 Nutting? Did they discuss with you any testimony or  
12 allegations Mr. Nutting has made in this lawsuit?

13 MR. WELSH: Same objection. Advise the witness  
14 not to answer.

15 MR. LYNCH: Why are you advising the witness  
16 not to answer?

17 MR. WELSH: Because they're privileged communi-  
18 cations, counsel; it's an improper question.

19 MR. LYNCH: It's a privileged technique.

20 Q It is true that then Mr. Frederiksen and Mr. Nutting's  
21 testimony in this lawsuit prior to this date was discussed  
22 with you; is that correct?

23 MR. WELSH: I object to the question and advise  
24 the witness he need not answer.

25 MR. LYNCH: I insist you let the witness answer.

1 Q Is that correct, that it was discussed with you, Mr.  
2 Winter?

3 A No reply.

4 Q All right. Mr. Winter, tell me precisely how Mr.  
5 Frederiksen designed the Safe game in 1973?

6 A Precisely how?

7 Q Um-hmm.

8 A I cannot.

9 Q Didn't you have discussions with him about the design  
10 of the Safe game?

11 A Yes, I did.

12 Q What was the concept for how to design the Safe game?

13 A He used a totally electronic approach, i.e., we did not  
14 use relays as we normally had in the past to accomplish  
15 functions of scoring, light initiation. He built the

16 A board, he built the Safe game electronic system on one  
17 large mother board.--

18 Q Okay.

19 A --which was against my own beliefs as a technique.

20 Q Okay.

21 A He completed the game along his design.

22 Q How do you know it was his design? Did he tell you?

23 placing h MR. WELSH: Counsel, you interrupted him again.

24 concept, MR. LYNCH: I'm trying to find the foundation.

25 placing b MR. WELSH: I insist you let the witness answer

1 A the question.

2 Q So -- MR. LYNCH: I'm sorry, Mr. Winter.

3 THE WITNESS: on these grounds, I'm concerned that

4 A Jeff Frederiksen was the only man in our organization  
5 that could do electronic design in total, or had the  
6 capacity to do it. He designed the total mother board  
7 electronic system for the Safe game.

8 subject. MR. LYNCH:

9 Q Is the case you're assuming he did it because he was the  
10 only one in your opinion that had the capability; is that  
11 correct? MR. LYNCH: I am not deposing that, Mr. Winter.

12 A That's correct. what it was. Do you want it read back?

13 Q And he designed this mother board for the Safe. Now, did  
14 the mother board for the Safe have a matrix quality or  
15 arrangement to it? my conversations with Mr. Frederiksen

16 A The mother board did not have in my mind a matrix quality  
17 to it.

18 Q But the mother board for some of the other devices did  
19 at that time; isn't that correct; that is, the Puzzler?

20 A Some of the earlier games did. me right now, and stated that

21 Q And this -- Strike that. Okay. And so then with respect  
22 to the work that Mr. Frederiksen began doing, you are  
23 placing his work on this total electronic concept --  
24 concept, which he embarked on after the Safe, you're  
25 placing it in time by virtue of the fact that you knew

1 A I do.

2 Q So -- And you refuse to answer questions about any  
3 information you got from these gentlemen concerning that  
4 array of incandescent lamps or any discussions that  
5 preceded this deposition with respect to this array of  
6 incandescent lamps; is that correct?

7 A I am accepting counsel's advise with regard to that  
8 subject.

9 Q Now about MR. WELSH: That is, conversations between him  
10 and me. Nothing in the last year? Strike that, please.

11 MR. LYNCH: I am not deposing you, Mr. Welsh.

12 The question is what it was. Do you want it read back?

13 MR. WELSH: No.

14 MR. LYNCH: Is that an expression of preference

15 Q Now, have you had any conversations with Mr. Frederiksen  
16 prior to this deposition within the last year?

17 A Yes. MR. LYNCH: Let me go a little bit farther.

18 Q Okay. I want you to tell me about that conversation.

19 A I called Jeff after I had received a call from a lawyer  
20 in Appleton whose name escapes me right now, and stated that  
21 I had been contacted by a man who was representing Williams.

22 Q That's Mr. Rifkin? ing?

23 A Yes, it was. several -- You asked if I had talked with

24 Q Okay. Nothing with in the last year?

25 A And Jeff said, oh, they have contacted you. Jeff started

1 A to tell me how I should act and behave, and I said,  
2 Jeff, I'll handle myself. I just wanted you to know that  
3 I had been contacted.

4 Q Specifically, what did he tell you about how to act and  
5 behave? What was he suggesting?

6 A He suggested that I not talk to Mr. Rifkin.

7 Q And eventually you did not talk to Mr. Rifkin?

8 A That is true.

9 Q How about Mr. Nutting? Did you have any conversations  
10 with Mr. Nutting in the last year? Strike that, please.

11 MR. LYNCH: Do you gentlemen have any preference  
12 as to when to break?

13 MR. WELSH: Fine.

14 MR. LYNCH: Is that an expression of preference?

15 MR. WELSH: I assume any time. We certainly  
16 want lunch.

17 MR. LYNCH: Let me go a little bit further.

18 Let me just -- let me get through this part and we'll  
19 break.

20 Q Was that the only conversation you had with Mr. Frederiksen?

21 A Yes, it was.

22 Q How about Mr. Nutting?

23 A I have talked several -- You asked if I had talked with  
24 Mr. Nutting within the last year?

25 Q Um-hmm.

1 A I have talked to Mr. Nutting probably several times within  
2 the last year, and only once with reference to the subject  
3 we're now into.

4 Q That's this lawsuit?

5 A Yes.

6 Q And what occurred at MCI back in the 1970 -- early 1970's?

7 A We didn't even get that detailed.

8 Q Tell me about that conversation with Mr. Nutting? What  
9 caused it to occur?

10 A After I had talked with Jeff, I really asked to talk to  
11 Dave Nutting and Dave called me back. I basically told  
12 him the same thing, that I had been called by Mr. Rifkin  
13 who was representing Williams, and he kind of laughed,  
14 and we talked just in generalities about the fact that I  
15 might be called to -- for a deposition with regards to the  
16 case.

17 Q What did -- Did he tell you anything about the case at  
18 that time?

19 A Nothing.

20 Q So is -- this is only one coversation you had with Mr.  
21 Nutting concerning the subject matter of this litigation?

22 A That's correct.

23 Q You haven't talked to either him or Mr. Frederiksen con-  
24 cerning the matters that have been heretofore involved in  
25 this deposition --

1 A That is correct.

2 Q -- the two occasions testified about?

3 A That is correct.

4 MR. LYNCH: All right. We might as well take  
5 a luncheon break now. Can we resume at 1:15?

6 MR. WELSH: We'll try to get back.

7 (A recess was taken at 12 o'clock noon.)

8 (The deposition reconvened at 1:20 p.m.)

9 MR. LYNCH: Gentlemen, we might as well get some  
10 things straight here. Do it the way you want to do it.  
11 First of all, we're going to have to move before Judge  
12 Grady -- I'm going to move before Judge Grady that if  
13 any of this witness' testimony is intended to be introduced  
14 at trial by Bally or on behalf of Bally, that the various  
15 conversations he's had with Bally counsel will be inquired  
16 into. You can -- We can do this on any schedule you want.  
17 I can go through this today and bring Mr. Winter back on  
18 another occasion, or we can go down and talk to the Judge.  
19 Furthermore, I understand that you told Mr. Rifkin that  
20 you've got a considerable amount of examination of Mr.  
21 Winter so we might be here another day.

22 MR. SCHNAYER: I said merely we had examination.

23 I want to make sure we had the right to cross-examination.

24 I didn't say how much we had. I said I wanted the right  
25 to cross-examination, and that we understood we did have



1 that right, and that we didn't cut off before --  
2 know that MR. LYNCH: I want to know who you're represent-  
3 ing when you say cross-examining. You're the lawyers for  
4 this gentleman. I don't think you can cross-examine him  
5 under those circumstances. But -- But we can have it  
6 any way you want to have it.ous aspects of his testimony

7 MR. WELSH: Well, you know our position so what --  
8 whatever you feel you have to do.ning to use any of the

9 MR. LYNCH: I'd just as soon Mr. Winter let me  
10 know. I'll come back. I think I would rather come back  
11 and finish the deposition all at one shot rather than  
12 have to go back, because I am going to correlate an  
13 awful lot of his testimony. I mean, to -- to -- to at I  
14 what you told him, and I -- I just think it's going to  
15 be redundant. I think I've got enough of a record right  
16 now. I can ask Miss Hackbarth to -- to go through this,  
17 you know, to provide us with this transcript, and I think  
18 it provides a sufficient amount of information. I --  
19 really, Mr. Winter, I have no desire at all to -- to in-  
20 convenience you, but the thing I'm saying, if we come  
21 back then I can finish it then. If the Judge says no,  
22 I'll finish without that kind of testimony. I'll finish  
23 him up at a later time, since it's more convenient,  
24 since I believe there is a significant opportunity that  
25 the Judge is going to let me inquire into these areas.

By the way, as far as your right to cross-examine, you know that will come at the end. I'm not trying to deprive you of that at the time we come back for this, so suit yourself. I just think it will be shorter for Mr. Winter if we do it this way. Because I'm going to want to correlate all of the various aspects of his testimony to what -- what discussions he's had with Bally's counsel.

MR. WELSH: Are you planning to use any of the testimony thus far in the patent office before you complete the deposition?

MR. LYNCH: How do I know? I don't know. I really have no idea. I mean, but I -- I do feel it is important at this time to -- to just let you know that I mean I might use it. I don't know what I'll use. I -- I -- You mean am I cutting it off now so you don't have the right --

MR. WELSH: Um-hmm.

MR. LYNCH: You're his lawyer. You can get Mr. Winter's affidavit if I did that. No big problem. Doesn't represent, you know, a big problem. As far as I can see.

MR. GOLDENBERG: John, there is another reason and that these --

MR. LYNCH: And then there is the documents, too. I mean, let's talk -- Are you still adhering to

1 STATE OF WISCONSIN )  
2 COUNTY OF MILWAUKEE ) SS.

3 I, KATHLEEN M. HACKBARTH , a Notary Public  
4 in and for the State of Wisconsin, do hereby certify that the  
5 foregoing deposition was taken before me at 825 North Jefferson  
6 Street , in the City of Milwaukee , County of Milwaukee,  
7 State of Wisconsin, on the 17th day of June , 1980 ,  
8 commencing at 9:30 o'clock a.m.; that it was taken at  
9 the instance of the Defendants,  
10 upon verbal interrogatories; that it was taken in shorthand  
11 by me, a competent court reporter and disinterested person,  
12 approved by all parties in interest, and thereafter reduced to  
13 typewriting under my direction; that said deposition is a true  
14 record of the deponent's testimony; and that said typewritten  
15 transcript is to be used in the above-entitled action now  
16 pending in United States District Court, Northern District  
of Illinois, Eastern Division  
17 that the appearances were as shown on Page 1 and 2 ; that  
18 the deposition was taken pursuant to Notice and Agreement ;  
19 that the said DANIEL N. WINTER , before  
20 examination, was sworn by me to testify the truth, the whole  
21 truth and nothing but the truth relative to said cause.

Dated this 17th day of June , 1980 .



*Kathleen M. HackbARTH*  
Notary Public, State of Wisconsin

25 My commission expires August 10, 1980.

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF ILLINOIS  
3 EASTERN DIVISION  
4

5 BALLY MANUFACTURING CORPORATION,  
6

Plaintiff,  
7

-vs-  
8

9 D. GOTTLIEB & CO., WILLIAMS  
ELECTRONICS, INC., and ROCKWELL  
INTERNATIONAL,  
10

Defendants.  
11

Case No. 78-C-22

12  
13 CONFIDENTIAL  
14 SUBJECT TO PROTECTIVE ORDER

15 This envelope contains documents which were filed in  
16 this case by Bally Manufacturing Corporation and is  
17 not to be opened, nor the contents to be displayed or  
18 revealed, except by, or upon order of, the Court  
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25

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BALLY MANUFACTURING CORPORATION,

Plaintiff,

-vs-

Case No. 78-C-224

D. GOTTLIEB & CO., WILLIAMS  
ELECTRONICS, INC., and ROCKWELL  
INTERNATIONAL,

Defendants.

SPECIAL CONFIDENTIAL  
SUBJECT TO PROTECTIVE ORDER

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